

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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IN RE: APPLICATION FOR AN  
EXTENSION OF NON-DISCLOSURE  
ORDER TO INSTAGRAM INC.  
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ORDER

18-MC-1504 (PK)

19-MC-1536 (JO)

James Orenstein, Magistrate Judge:

On June 12, 2019, I issued an order directing subpoena recipient Instagram Inc. ("Instagram") to submit a brief setting forth its position on the validity of the application of the non-disclosure provision of 18 U.S.C. § 2705(b) specifically to the circumstances of a grand jury subpoena. Docket Entry ("DE") 2. While the overall docket for this matter is properly kept under seal to maintain the secrecy of matters occurring before a grand jury, *see* Fed. R. Crim. P. 6(e)(2), nothing in my order revealed any facts about either the subpoena issued to Instagram's corporate parent or the underlying grand jury investigation. Moreover, the issue as to which I seek Instagram's views is a purely legal one that requires no discussion of any matter occurring before the grand jury, and that is likely to arise in future cases. As a result, while there is no cognizable prejudice that openly litigating this matter will cause to anyone, there are a host of good reasons to resolve the legal issue on the public record. *See, e.g., Matter of Leopold to Unseal Certain Elec. Surveillance Applications & Orders*, 300 F. Supp. 3d 61, 79-80 (D.D.C.), *reconsideration denied*, 327 F. Supp. 3d 1 (D.D.C. 2018).

I therefore respectfully direct the Clerk to open a new miscellaneous docket with the same caption as this one, not under seal, and to file on that public docket the following items: a redacted copy of the government's original application, DE 1;<sup>1</sup> a copy of my order of June 12, 2019, DE 2;

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<sup>1</sup> Nothing in the text of the application itself reveal any specific information about matters occurring before the grand jury or the underlying investigation. The application includes as attachments a proposed extension order and the court's original non-disclosure order, each of which likewise reveals no such information, and the underlying subpoena. The latter attachment should be redacted in its entirety in the version filed on the public docket.

SO ORDERED.

\_\_\_\_\_/s/\_\_\_\_\_  
James Orenstein  
U.S. Magistrate Judge